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Legal Department, DL429
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ATTORNEY DOCKET NO. 10010011-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Herbert F. Cattell

Serial No.: 09/775,163

Filing Date: January 31, 2001

Examiner: Lori A. Clow

Group Art Unit: 1631

Title: READING CHEMICAL ARRAYS

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

- [x] Response/Amendment
- [ ] New fee as calculated below
- [x] No additional fee   (Address envelope to "Mail Stop Amendments")
- [x] Other: Declaration Under 37 C.F.R. 1.131   (Fee $_____)

- [ ] Petition to extend time to respond
- [ ] Supplemental Declaration

(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	$ 0
[ ] FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	$ 0
EXTENSION FEE	1ST MONTH 120.00 [ ]	2ND MONTH 450.00 [ ]	3RD MONTH 1020.00 [ ]	4TH MONTH 1590.00 [ ]		$ 0
					OTHER FEES	$ 0
			TOTAL ADDITIONAL FEE FOR THIS AMENDMENT			$ 0

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY

Charge $ 0 ___ to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.2 6. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below:

571 2738300

Date of facsimile: 05-26-2005

Typed Name: Donna Macedo

Signature: *[signature]*

Respectfully submitted,

Herbert F. Cattell

By *[signature]*

Bret E. Field for Dianne Rees
Attorney/Agent for Applicant(s)

Reg. No. 37,820

Date: 05-26-2005

Telephone No. (650) 485-5999

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AMENDMENT and RESPONSE	Application Number	09/776,163
	Attorney Docket Number	10010011-1
	Filing Date	January 31, 2001
	First Named Inventor	Herbert F. Cattell
	Examiner	Lori A. Clow
	Group Art	1631
	Title	Reading Chemical Arrays

Sir:

This amendment is responsive to the Office Action dated March 7, 2005.

REMARKS

In view of the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-14, 16, 25-34, 37, and 43-55, the only claims pending and currently under examination in this application.

Claims 1-14, 16, 25-34, 37, and 43-55 have been rejected under 35 U.S.C. § 102 (a) as being anticipated by Genepix.

As stated in MPEP 2131:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

In order for a cited reference to anticipate a claimed invention the reference must be prior art. To constitute prior art under 102 (a) the Genpix reference must have been published before the conception of the instant invention. Applicant submits herewith the Declaration of Herbert Cattell under 37 C.F.R. §1.131, which provides a showing of facts that the inventor conceived of the claimed invention prior to the November 2000 publication date of the Genepix art. In light of this Declaration, Applicant contends that the Genepix art does not qualify and therefore is not available to be used as prior art to the presently claimed invention.

Accordingly, Applicant respectfully request the rejection of Claims 1-14, 16, 25-34, 37, and 43-55 under 35 U.S.C. § 102 (a) as being anticipated by Genepix be withdrawn.

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